for The Defense

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THE PROSECUTOR'S DUTY TO DISCLOSE: The Crying Game

by Christopher Johns

The number one source of delay in the criminal justice system from a defense perspective is the prosecution's failure to provide discovery. The prosecutor's lack of cooperativeness in providing requested discovery and exculpatory information, in coordinating pretrial interviews, and in timely responding to discovery issues makes an already overburdened adult criminal system that much harder in which to seek justice for clients.

Likewise, the hands-off judicial approach to discovery disputes further encourages prosecutorial discovery abuses. Often, trying to get what clients are entitled to by law is more of a crying game--requiring constant whining that leads to frustration on the part of counsel and the client.

A recent ethics opinion gives some relief. The fact that relief is in an ethics opinion, however, may mean that defense lawyers will continue to be hampered in obtaining what they are entitled to by law, because of a reluctance to file bar complaints. Still, the opinion makes clear that some common prosecutor practices are unethical, and pumps new life into the importance of actively seeking discovery in every case. Using the opinion may cause fewer defense lawyer tears.

Arizona State Bar Ethics Opinion No. 94-07 issued on March 18, 1994 should be in every trial lawyer's notebook and considered during *every* plea negotiation session with prosecutors.

A Maricopa County Attorney sought the opinion. Essentially, clarification was requested about the ethical duties of prosecutors in providing exculpatory information. The prosecutor apparently thought that some information requested by defense counsel was not exculpatory and questioned whether it was just information that could be characterized as "problems of proof."

Three questions were posed to the ethics committee. First, the arresting DUI officer who had performed field sobriety and breath tests died. The prosecutor offers a deal, however, does not disclose that the officer has died.

Second, a defendant is charged with a drug sale. The drugs were destroyed. The state thinks it may go to trial without the drugs. Must the prosecutor disclose that the drugs are destroyed?

Third, a urine sample is obtained as the evidence of drug use. It is completely consumed in testing. No portion is available for an independent test by the defense. The defense lawyer has *made no motion for discovery.*

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Background

Remember *Brady v. Maryland* requires prosecutors to timely turn over to defense counsel evidence that is "material" when "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceedings would have been different." *Brady* does not just extend to evidentiary, exculpatory information, but also to information that may be used to impeach government witnesses. Plus, the supreme court has written that since deciding whether something is exculpatory isn't easy, doubt by prosecutors should be resolved in *favor of disclosure.*

Ethical and Discovery Rules

In a nutshell, defense lawyers must remember that Arizona's ethical and discovery rules entitle our clients to *more in the way of pretrial discovery information!!!*

ER 3.8(d) requires prosecutors to disclose "all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense . . ." In other words, Arizona prosecutors ethically must disclose more than just *Brady* material.

The ABA Comments to Rule 3.8(d) further support the above analysis ("The ethical duty, therefore, requires disclosure beyond that which may be material under the *Bagley* standard . . ."). The Arizona comments are also in accord.

. . . defense lawyers must remember that Arizona's ethical and discovery rules entitle our clients to *more in the way of pretrial discovery information!!!*

Moreover, as Ethics Opinion No. 94-07 makes plain, the broad disclosure requirements of Ariz. R. Crim. P. 15.1(a)(7) track ER 3.8(d).[1] The same rule also forces prosecutors to disclose the names of their witnesses for their case-in-chief. *See* Rule 15.l(a). *See* 15.1(a)(4) for documents that must be disclosed.

Additionally, on *written request* prosecutors must make certain items available for testing. Lastly, both sides have a continuing duty to disclose additional information or material covered by the criminal rules.

The Scenarios

The death of an officer must be timely disclosed. The committee notes that while ER 3.8(d) *may* require disclosure, it is not necessary to rely on it, because Rule 15.1(a)(1) REQUIRES THAT THE NAMES OF ALL WITNESSES BE DISCLOSED. The continuing discovery obligation mandates that prosecutors CORRECT their lists of witnesses. The ethical violation rests on ER 3.4(c). That rule prohibits prosecutors (and defense counsel) from "knowingly disobeying an obligation under the rules of a tribunal except upon an open refusal based on an assertion that no valid obligation exists."

The failure of a prosecutor to notify defense counsel of the death of a listed witness is, according to Ethics Opinion 94-07, to "deceive and mislead the defendant." It is also prejudicial to the administration of justice and violative of ER 8.4(c) and (d).

Likewise, failure to disclose that drugs that are part of a prosecution have been destroyed is a Rule 15 violation (assuming they have been properly listed as tangible evidence under Rule 15.l(a)(4)). Most importantly, the disclosure of evidence that has been destroyed MUST be made before the defendant responds to a plea offer. Failure to disclose that fact is a violation of ER 8.4(c) and (d) since it misleads defense counsel about the strength of the government's case.

A slightly different twist exists in the case of the urine sample. Remember, defense counsel in this scenario *has not* requested discovery. The prosecutor's Rule 15 disclosure may not necessarily list the urine sample--it is more likely it just lists the test report. A fine line, however, a fairly good one for the prosecutor to argue that she does not have to reveal that the urine was *consumed* during testing.

Defense counsel *would* have a right to production of the urine for her own test under Rule 15. Had she requested it, there is no doubt she would be entitled to it.

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for The Defense

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While there may be an independent right to preservation of the sample, and an excellent motion to suppress, again defense counsel will not know this information unless a written disclosure motion is made.

The opinion also notes that the failure to preserve the urine sample would also give rise to a *Willits*[2] instruction. Again, this disclosure must be made timely so that an accused may use the knowledge in preparing the case and responding to plea negotiations.[3]

Ramifications

From a practice perspective, it is imperative that *written* discovery motions be filed in every case in order to best represent the client. That basic duty is also necessary to preserve *Brady* violations. Discovery requests may easily be tailored to individual types of cases or clients without relying on generic forms. Although not required by the rules, filing for a separate list of witnesses in *every* case also has its benefits as Ethics Opinion No. 94-07 demonstrates.

As for the existence of witnesses and drugs, conscientious defense counsel will usually check to determine whether a crucial witness or evidence is available independently of receiving the government's disclosure. The demands of too many cases being handled by public defenders, however, often make that kind of detailed representation difficult.

Defense lawyers should either consider an addendum to every plea agreement OR an *avowal on the record* by the prosecutor at a change of plea proceeding that all witnesses listed by the government for trial are available to testify. This is especially *necessary* in the case of complaining witnesses (most often referred to as alleged victims).

Likewise, a demand that the prosecutor provide an addendum ensuring that drug evidence is available for trial or an avowal that it exists is absolutely necessary to protect client's rights.

Given the scope of discovery abuses that appear to be happening daily in the superior courts, it is absolutely necessary that defense counsel enforce Rule 15. If judges are unwilling to properly enforce discovery abuses by the government when brought to their attention, counsel may use Ethics Opinion No. 94-07 as further support for the egregious nature of the violation. Both prosecutor and judge violate the ethical rules by ignoring that our clients are entitled to all information that tends to negate or mitigate an accused's offense. To do less is to deny our clients justice. Don't whine, attack with the rules!

A limited number of copies of Ethics Opinion No. 94-07 are available from the Maricopa County Public Defender's Office Training Division on request (call Heather at 506-7569). Copies may also be obtained from the Arizona State Bar.

From a practice perspective, it is imperative that *written* discovery motions be filed in every case in order to best represent the client.

1 "All material or information which tends to mitigate or negate the defendant's guilt as to the offense charged, or which would tend to reduce the defendant's punishment therefor, including all prior felony convictions of witnesses whom the prosecutor expects to call at trial." Rule 15.1(a)(7).

2 *State v. Willits*, 96 Ariz. 184, 393 P.2d 274 (1964).

3 One committee member wrote an interesting dissent that is included in the opinion. ◆

Significant Cases Interpreting Arizona's Victims' Bill of Rights[1]

By Christopher Johns[2] & Ernesto Quesada[3]

* *State v. Roscoe*, ____ Ariz. ____ (Ariz. App. Div. 2, 1994); 166 Ariz. Adv. Rep. 12 (Filed May 31, 1994).

A.R.S. 13-4433(F) and Ariz. R. Crim. P. 39(b), to the extent that they conflict with the Arizona Constitution's definition of a victim, are unconstitutional. Neither the courts nor the legislature has the power to abrogate constitutional rights. There is no error where trial court refused to order pretrial interview of police officer-victims since interviews would have abrogated their constitutional right to refuse an interview or other discovery request.

Note: "[P]eace officer-victims are not excepted from this definition and are therefore entitled to the same constitutional protection afforded to other crime victims. Courts must apply the plain language of the Victims' Bill of Rights . . . A.R.S. 13-4433(F) and Ariz. R. Crim. P. 39(b) are accordingly unconstitutional, and the trial court correctly denied *Roscoe*'s request to interview officers."

(cont. on pg. 4)☞

Practitioners should also note that A.R.S. 13-4433(F) was repealed in 1993 as part of the criminal code rewrite. It is no longer a statute that may be relied upon. This opinion, however, is not convincing since there are several arguments that may still be explored, including the fact that police officers are sometimes agents of the prosecutor.

* ***State v. Contreras,*** ____ Ariz. ____ (Ariz. App. Div. 1, 1994); 165 Ariz. Adv. Rep. 21 (Filed May 17, 1994).

The trial court retains jurisdiction over probationary terms until probation is completed or it is revoked and a prison sentence ordered. This includes jurisdiction over restitution. A victim does not waive the right to restitution even though a letter is sent pursuant to A.R.S. 13-4410(B) (which requires state to inform victim of right to make statement and describe restitution sought) and the victim fails to respond. Trial court's obligation to order restitution is not excused and increase in restitution is not an increase in punishment.

Note: Strong dissent by Judge Noyes on bases of waiver and lack of jurisdiction. "These victims waived their restitution rights by failing to act despite having notice of the need for action." May easily be basis for further appeal and making a record in present cases.

* ***State ex. rel. Hance v. Arizona Board of Pardons,*** ___ Ariz. ___ (Ariz. App. Div. 1, 1993); 150 Ariz. Adv. Rep. 42 (Filed October 26, 1993).

The court of appeals has jurisdiction to hear this special action seeking redress against a state agency. The failure to notify a victim of her constitutional rights under the Victims' Bill of Rights may entitle her to have the parole board's order releasing a prisoner set aside.

Note: The court continues to stress that the Victims' Bill of Rights applies to all cases pending at the time of its adoption, and to all release proceedings held after its effective date.

* ***Knutson v. County of Maricopa, ex. rel. Romley,*** 175 Ariz. 445, 857 P.2d 1299, (Ariz. App. Div. 1, 1993) (review denied Sept. 21, 1993).

Rule 39, Ariz. R. Crim. P., does not create a negligence cause of action against the Maricopa County Attorney's Office and one of its trial deputies for failure to confer with a crime victim regarding a plea bargain and the change of plea proceeding.

Note: The victim alleged that the prosecutor's failures resulted in her suffering severe emotional distress. "We hold that Rule 39 does not create a private cause of action for negligence and, because the alleged negligent failure to act in this case occurred before the Arizona voters approved the constitutional amendment adopting the Victims' Bill of Rights, we do not reach the issue of whether the constitutional amendment provides for such a cause of action. [citation omitted] We also do not reach the issue raised on cross-appeal, whether the prosecutor, the Maricopa County Attorney, or the County of Maricopa is absolutely immune from suit under these facts."

* ***Hedlund v. Superior Court,*** 173 Ariz. 143, 840 P.2d 1008, (Ariz. 1992) (reconsideration denied Dec. 1, 1992) (vacating 171 Ariz. 566, 832 P.2d 219) (Ariz. App. Div. 1, 1992).

Order by trial court to impanel two juries for co-defendants in death penalty case based ostensibly upon the Victims' Bill of Rights is not prohibited since the trial court did not exceed its authority in adopting a dual jury procedure. The holding of *State v. Lambright,* 138 Ariz. 63, 673 P.2d 1 (1983), *cert. denied,* 469 U.S. 892 (1984) is overruled.

Note: "Trial judges have inherent power and discretion to adopt special, individualized procedures designed to promote the ends of justice in each case that comes before them."

* ***State of Arizona ex. rel. Dean v. City Court of Tucson,*** 173 Ariz. 515, 844 P.2d 1165, (Ariz. App. Div. 2, 1992) (review denied Feb. 17, 1993).

Nothing in the Victims' Bill or Victims' Rights Implementation Act prohibits an alleged victim from being ordered to appear and testify at a pretrial hearing on a motion to dismiss for lack of probable cause.

Note: "We are unpersuaded by the state's argument that appellee is violating the alleged victim's right to refuse an interview by using the pretrial hearing as a subterfuge to 'interview' the victim on the stand."

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* ***State ex rel. Romley v. Superior Court (Roper),*** 172 Ariz. 232, 836 P.2d 445 (Ariz. App. Div. 1 1992) (*review denied* Sept. 22, 1992).

Right to confront witnesses also means the ability to effectively cross-examine. Therefore, in a self-defense case the accused's due process rights to a fair trial outweighed the Victims' Bill of Rights protection prohibiting production of certain victim medical records (essential to the theory of the case) for inspection by defendant's experts.

Note: "[T]he amendment should not be a sword in the hands of victims to thwart a defendant's ability to effectively present a legitimate defense. Nor should the amendment be a fortress behind which prosecutors may isolate themselves from their constitutional duty to afford a criminal defendant a fair trial."

* ***S.A. v. Superior Court, County of Maricopa,*** 171 Ariz. 529, 831 P.2d 1297 (Ariz. App. Div. 1 1992).

The Victims' Bill of Rights, although granting crime victims the right to refuse certain defense discovery requests, does not confer the right to refuse to obey a court order to appear and testify at an accused's criminal trial.

Note: "[T]he Victims' Bill of Rights should not be a 'sword in the hands of victims to thwart prosecution of a wrongdoer."

* ***Knapp v. Martone,*** 170 Ariz. 237, 823 P.2d 685 (Ariz. 1992).

Even though the prosecution claimed that petitioner was an unindicted co-conspirator, as the mother of the two deceased children in the case, she meets the definition of a victim under the Victims' Bill of Rights, and therefore is entitled to refuse the accused's discovery request to depose her.

Note: Dissent by Vice Chief Justice Feldman notes that "the majority offers neither explanation nor support for its implicit assumption that the scope of a constitutional guarantee can be amended by legislation." *See also,* footnote 5 of the dissent.

* ***State v. O'Neil,*** 172 Ariz. 180, 836 P.2d 393 (Ariz. App. Div. 2, 1991) (*review denied* Sept. 22, 1992).

The state may not be ordered to tape-record formal or informal statements made by an alleged victim to the prosecution to be given to the accused. Application of Rule 15.1(e) to complaining witnesses would be an end-run of crime victims' constitutional rights.

Note: "The constitutional provision does not, however, alter the state's continuing duty to disclose under Rule 15.6, Ariz. R. Crim. P., 17 A.R.S. Thus, to the extent that communications with the victims are recorded by the state or otherwise reveal information that is discoverable, they must be disclosed."

The Victims' Bill of Rights, although granting crime victims the right to refuse certain defense discovery requests, does not confer the right to refuse to obey a court order to appear and testify at an accused's criminal trial.

* ***Day v. Superior Court,*** 170 Ariz. 215, 823 P.2d 82 (Ariz. App. Div. 1, 1991) (*review denied* Feb. 4, 1992).

The trial court's denial of a motion to depose an alleged victim did not violate Rule 15.3, Ariz. R. Crim. P., or the holding in *Slayton v. Shumway* since only the deposition of a victim is precluded and not the authority of the court to order other material witnesses to submit to pretrial interviews in appropriate circumstances.

* ***State v. Warner,*** 168 Ariz. 261, 812 P.2d 1079 (Ariz. App. Div. 2, 1990) (*review denied* July 10, 1991).

Provisions of the Victims' Bill of Rights allowing alleged crime victims to refuse a pretrial defense interview apply to all criminal cases pending on the date the amendment became effective. Since refusal of discovery request did not affect substantive right and is procedural in nature, general rule of prospective application is inapplicable.

Note: The court asserts that there is no federal or state constitutional right to discovery and that the 1990 amendment puts the accused in the same place as "every other criminal defendant both here and in other jurisdictions."

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* ***Slayton v. Shumway,*** 166 Ariz. 87, 800 P.2d 590 (Ariz. 1990).

Provisions in the Victims' Bill of Rights transferring criminal rule-making authority to the legislature for the purpose of protecting victims' rights could be narrowly construed as constitutional, and therefore does not violate the single subject rule contained in article 21, §1 of the Arizona Constitution.

Note: Strong dissent by Justice Cameron argues that provisions in the Victims' Bill of Rights granting court rule-making authority to the legislature is "contrary to the inherent right of the courts to provide rules of procedure for the state court system."

[1]June 15, 1994; Other: *See* "Beyond the Victims' Bill of Rights: The Shield Becomes a Sword," Vol. 36, No. 249 *Arizona Law Review* (Note by Stellisa Scott arguing unconstitutionality of A.R.S. §13-4433 on First Amendment grounds.

[2]Training Director of the Maricopa County Public Defender's Office.

[3]Law Clerk of the Maricopa County Public Defender's Office. ◆

OPENINGS, PART II: The Challenge

One of the pleasures of being a criminal defense lawyer is seeing our peers perform their craft. Viewing an excellent opening statement, cross-examination or closing argument is almost as sweet to the criminal defense lawyer as a *not guilty* (clients are much more impressed with the latter).

In the last *for the Defense*, some basic opening statement ideas were shared with the reader with the promise of more. This is the "more" and it is a challenge to readers:

I Challenge You To Do These Things In Your Opening:

* BE A JUROR IN PREPARATION

* PRESENT YOUR THEORY CLEARLY

* TELL A STORY

* SUPPORT IT FACTUALLY

* USE EMOTION

* CREATE SOMETHING *VISUAL* FOR EVERY OPENING

* DO SOMETHING *VISUAL* IN EVERY OPENING

* DO SOMETHING YOU HAVE NEVER DONE BEFORE IN EVERY OPENING

* DO SOMETHING BOLD IN EVERY OPENING

Prosecutors & Openings

A couple of years ago, David Lewis, a well-known, New York criminal defense lawyer wrote an article for the Fordham Law Review entitled *The Urban Criminal Justice System & The Juror's Perception* (copies available from the Training Division). David's theme is simple: The public need to know that there is no inherent knowledge or wisdom by any player in the criminal justice system. Much of what a criminal defense lawyer must so is de-sensitize jurors from the myths they have about the system; for example, that the judge is wise and that cops should be trusted as servants of law and order.

We The People

Likewise, jurors come to the case with a perception or mental picture of what a prosecutor should be. Standard stuff for prosecutors is to invoke the "I represent the People of Arizona" mythology. While not appropriate in every case, at least consider debunking this myth at some point in your opening or using it as a minor theme to your overall theory of the case.

Remember, don't let 'em portray "us" as sleazy defense lawyers. Nothing could be farther from the truth, and nothing makes me happier than when prosecutors invoke the myth of representing the "people." My retort is always that "I represent one of the people of Arizona and her name is Jane Innocent, and she's been sitting with me over there during the prosecutor's opening."

David Lewis puts it this way:

[The] prosecutor is not the People. The Constitution said it first 'We the People' --- You're [the jurors] the People, I'm the People and the [client] here is the People. This man [the prosecutor] is an employee doing a job. You and all of us and even him --- all of us are the People. The great American experiment, Mr. Prosecutor, is one in which we embrace and include each other, not exclude people like this [client] here. We are the People, remember that.

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Objections

Another way the prosecutorial myth is destroyed is to object, even during the prosecutor's opening, when appropriate. While some trial attorneys [and judges] view this as discourteous, in my opinion, it is even more discourteous for the prosecutor to have an opening that is objectionable. Not objecting may be nice to show jurors you are courteous--but it is totally at the expense of clients. Flagrant violations of the rules must be punished, and in doing so you are more likely simply pointing out the fallacy of the prosecutor as being fair than hurting your own credibility (unless every objection is overruled!). All objections must be considered in concert with your theory of the case.

Perhaps most importantly, don't wait until the end of the prosecutor's opening to object.

Motions

The so-called motions in limine are also excellent devices. Some cases and some prosecutors make it easy to anticipate improper openings. Put 'em on notice.

Prosecutor Objections

The easiest way to handle their objections is to not give 'em a legitimate reason for an objection. And, make 'em pay when they do inappropriately object. For example, that's one of the few times that it really is appropriate to thank the judge (why do we thank 'em for overruling us?). "Thank you, your Honor. Now as I was saying . . ." (repeat the comment that drew the inappropriate objection and continue).

Impediments to Successful Openings

Traditions

Tradition! Tradition is a limiting thought when it comes to openings. Jurors don't expect this stuff. We do. "May it please the court. My name is unimaginative defense counsel and I represent some poor shnook." Just repeating legal shibboleths does little to really benefit the client. Purely oral presentations, being just intellectual and just covering the law are ineffective persuasion devices.

Reconsider the traditions. If you have a good reason for using them, fine--keep them. If you can't find a reason, stop. Doing the same thing over and over again and expecting a different result is one definition of insanity. Once, for example, starting an opening statement while seated was unheard of. Not anymore, now that *L.A. Law* has made it fashionable.

Consider your audience. Purely logical openings may impress the prosecutor and some judges, but do they help your client? Make it real instead. If you decide that some traditions are helpful, don't let them interfere with the persuasive power of your opening. For example, consider the introduction after you have discussed the crucial part of the case.

Don't forget the client. If you plan to introduce everyone, make sure you include your client.

Another limiting thought is that some lawyers believe that openings really aren't that important. One lawyer I know constantly says she doesn't have a strong opening. Another lawyer I know says that closings are more important. Still, another one I've talked with often is convinced that cross-examination wins cases.

What the jurors hear first will be remembered best. That is the rule of primacy.

Obviously, I disagree. Why? Even if you believe that your opening is not that important, what have you got to lose? Why not maximize every aspect of the case? Accomplish all you can in each phase of the trial.

Moreover, research suggests that openings are **important**. Most people make up their minds quickly. Once their minds are made up, it's harder to change them. The goal in a defense opening is to strike while the chance to affect decision-making is likeliest.

What the jurors hear first will be remembered best. That is the rule of primacy. If what you tell them has no substance, the jurors will either remember that there was no substance or remember nothing. Plus, you are your client's best witness. There is probably no one who can better tell your client's story --- his defense --- than you.

Fear of Committing to a Theory

One common rationalization for not preparing an effective opening or saying nothing is the old "fear of surprises" and "I don't want to be committed to a theory" since who knows what will happen in the trial? Putting aside that there should be no surprises if defense counsel is really prepared, how often have you actually changed your whole theory? Ever? Once? Most trial surprises change the strength of the case and not the theory. For example, there are not too many times we plan a mistaken identification case only to hear the prosecutor's opening and decide it should now be self-defense.

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Nevertheless, even if you want some surprises or expect some, you can still present your theory clearly, but only present those facts you are certain you can deliver. If necessary, don't tie specific information to specific witnesses. This gives you flexibility in how you get in the evidence you need to fit your theory of the case.

The fear of not being able to deliver is a big one. There is a solution. Don't promise the moon or overdo it. "Plant acorns, not oak trees." Use emotion, but reduce its display. Don't be phony. Using emotion simply means reasonably demonstrating the emotion appropriate to your point. For example, if you talk about the outrageous way your client was treated without even a hint of outrage in your own voice, jurors will wonder whether it was really all that bad.

If you are going to promise stuff, promise facts and not conclusions. Save the conclusions for closing.

The whole ball game is to persuade without argument. Present facts in your opening in an interesting and persuasive way by using organization and word selection. You shouldn't be overly dramatic, but you should be interesting.

Your style is your stage, not your prison. Your style is what allows you do to your best work. It shouldn't keep you from doing it. You have to test the limits of your style, however, to expand your lawyer tools. Just being comfortable with the same old way you've always done things may not be good. It may show. Doing something different produces a bit of anxiety which adds adrenalin and a little edge to your opening. Take up the challenge.

The final installment on openings next month.

CJ ◆

FOR THE RECORD:
In Re Goodfarb

by Steve Collins

The recent *New Times* article on the judicial misconduct proceedings against Judge Stanley Goodfarb omitted some facts. In order to set the record straight, I am publishing a copy of the letter I sent to the Commission on Judicial Conduct. [This information may be instructive to other attorneys who are unfortunate enough to encounter a judge who makes an improper racial, ethnic or sexual remark.]

March 21, 1994

Commission on Judicial Conduct
1501 West Jefferson Street
Phoenix, Arizona 85007

Re: Judge Stanley Goodfarb

Dear Commission Members:

I am the attorney who represented Mr. Ronnie Joseph on appeal and was present in Judge Stanley Goodfarb's chambers when he made derogatory statements about Native Americans and African-Americans. Judge Goodfarb has claimed that his statements were completely out of character and that he would never tolerate racial discrimination. This claim should not be examined in a vacuum, but rather should be examined in the context of the Joseph case.

Mr. Joseph is an African-American. During jury selection in his trial, the prosecutor excluded the only minority members from the jury panel. After Mr. Joseph was convicted and sentenced, I was assigned to the case. I filed a petition for post-conviction relief asserting that the prosecutor's actions constituted illegal racial discrimination and I had the matter set for a formal hearing.

At an informal conference before the hearing, I told Judge Goodfarb that it was obvious that the prosecutor's actions were racially motivated. Judge Goodfarb responded that he did not care. I told him that was wrong. He again made it clear he did not care. When I persisted with the issue, Judge Goodfarb responded by stating if he was a prosecutor he would never allow "Indians" and "fucking niggers" on his juries either. The derogatory statements were the direct result

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of Judge Goodfarb being pressured to "do the right thing" about the racial discrimination.

To understand this matter it may be helpful to look at the background. The United States Supreme Court held that in the trial of an African-American, a prosecutor may not use peremptory jury strikes to exclude members of a defendant's "race from the jury venire on account of race, or on the false assumption that members of his race as a group are not qualified to serve as jurors." Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712, 1713, 90 L.Ed.2d 69 (1986). This principle also applies when a peremptory challenge is used against a juror of a different race or ethnicity than the defendant, because the "racially motivated exclusion violates the juror's constitutional rights" as well as that of the defendant. State v. Katzorke, 167 Ariz. 599, 600, 810 P.2d 597 (Ct. App. 1990). A prosecutor may strike a minority member from a jury only if a "racially neutral" reason is articulated.

In a highly unusual move, the prosecutor used only two of his six allotted peremptory jury strikes in the Joseph case. An African-American was next in line to be placed on the jury if the prosecutor had used even one more strike. Trial counsel stated that in over twenty years of criminal trial practice he had never seen a prosecutor fail to use all of the allotted peremptory strikes.

The prosecutor's maneuver is the legal equivalent of actually using a third strike to exclude the African-American juror. Therefore, a "racially neutral" reason must be articulated. See State v. Scholl, 154 Ariz. 426, 743 P.2d 406 (Ct. App. 1987). However, Scholl contains an exception when it is the prosecutor's habit not to use all of the allotted peremptory strikes.

The mandate in Scholl was issued only four months prior to Mr. Joseph's trial. It is noteworthy that the prosecutor parroted the language in Scholl stating that "as a habit, it is my rule not to exercise all possible strikes in jury selection." Despite trial counsel's objection, Judge Goodfarb did not require the prosecutor to give a reason for excluding the African-American juror. There is nothing in the transcript of jury selection that would have supported excluding that juror.

When I read the transcripts on appeal, I doubted the prosecutor's claim that it was his habit not to use all peremptory strikes. I interviewed him and requested a list of his prior trials so I could examine jury selection in those cases. He stated he had previously tried over forty-five jury trials as a prosecutor in Yuma County. However, he told me he could not remember the name of even one of those cases. I gave him a couple weeks to give it some thought and he still failed to remember a single case name. It strongly appeared that the prosecutor was "stonewalling."

The prosecutor said he was able to recall only one case that he had tried in Maricopa County before the Joseph trial. That case was tried one month before the opinion was published in State v. Scholl. A search of the record revealed the prosecutor used all six of his allotted strikes in that case. Three of the six strikes excluded jurors with Hispanic surnames. The record does not reflect the race or ethnicity of the other three jurors struck by the prosecutor.

I had a strong argument that the prosecutor's "habit" of not using all peremptory strikes had not become his "habit" until State v. Scholl was published. This newly acquired "habit" was just a devious method of excluding minority jurors without having to give any reason for the exclusion. This was improper racial discrimination in violation of Batson v. Kentucky.

Of the two peremptory strikes the prosecutor used, one specifically excluded a Native American. Upon objection by trial counsel, the prosecutor argued that Batson v. Kentucky should not apply. He then gave an illusory reason that he felt the Native American was inattentive. The transcripts reflect that the Native American answered all questions addressed to him.

If the prosecutor had used three, four, five or six peremptory strikes, he had to give a "racially neutral" reason for excluding the African-American juror. By exercising just two strikes, he successfully avoided giving a reason. One of the strikes used was against the only other minority member. The prosecutor claimed it was just by chance that he chose to use only two strikes and that the only two minority members on the jury panel were excluded. Considering mathematical probabilities, the odds were over fifty to one against this happening randomly. It was extremely unlikely this happened for "racially neutral" reasons.

The above gives a general summary of the case I was trying to present to Judge Goodfarb. At the time of the informal conference, he had already received a memorandum on my arguments. Judge Goodfarb also knew that I had subpoenaed the prosecutor to testify at the formal hearing.

At the conference, I discussed the above facts and told Judge Goodfarb that the prosecutor's stated reasons for excluding the minority jurors were beyond belief. I said the prosecutor's statement that he could not remember even one of over forty-five cases he had tried

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in Yuma County, was also unbelievable. I concluded my comments by directly telling Judge Goodfarb that he knew the prosecutor's strikes were racially motivated and he could "wink at the prosecutor and say the discrimination is acceptable and then look the other way, but that is wrong."

Judge Goodfarb responded by stating that he did not feel Batson v. Kentucky should apply to jurors that are not of the same race as the defendant. He knew the Arizona Supreme Court had ruled otherwise, but he felt it was wrong.

Judge Goodfarb then stated that traditional Navajos do not believe in judging people. He talked about the recent murder of two policemen on the Navajo reservation and stated the Navajos just thought it involved some people getting drunk and the Navajos did not really care. Judge Goodfarb said he knew because he had dealt with many matters on the reservations.

I responded by telling Judge Goodfarb that his argument on keeping Native Americans off juries because he felt traditional Navajos would never convict anyone, goes directly against the holding in Batson v. Kentucky. I said even if you assumed for the sake of argument that it was relevant, it did not apply here because there was no evidence that the Native American juror was a traditional Navajo or even a Navajo. I pointed out that the prosecutor did not bother to ask even one question of the Native American juror before striking him.

Judge Goodfarb responded by stating that if he was a prosecutor, he would never allow Indians or "fucking niggers" to be jurors. He then elaborated on this thought using the term "niggers" probably two or three more times. I asked the judge to put those statements on the record. He responded by kidding, "statements, what statements, I haven't said anything." The total time spent in chambers was approximately fifteen minutes. Approximately five minutes was spent by Judge Goodfarb on his contention that prosecutors should always keep Indians and "niggers" off juries.

When I left chambers to enter the courtroom for the formal hearing, I was stunned and told the deputy county attorney present that I could not believe Judge Goodfarb made those statements. I agonized for two or three minutes about the personal consequences of making a record in which I would be accusing a superior court judge of racism. I then went back to chambers and told Judge Goodfarb I was going to make a record.

Judge Goodfarb responded that he had been a judge for many years and people always knew he was kidding when he made such statements. He said he was "offended" that I wanted to make a record and that I was being "ridiculous." He berated me for two or three minutes trying to convince me not to make a record. I told Judge Goodfarb that he had put me in a bad position and that I had to make a record. He recused himself before I could make a record.

Judge Goodfarb has stated that the racial epithets were out of character for him and were the result of his frustration with the number of times I continued the case. Judge Goodfarb never expressed this "great frustration" at the time of the incident. This case involved extensive research and investigation by me. It was made more difficult by the lack of cooperation from the prosecutor. I find it significant that I am the one Judge Goodfarb is now blaming for his conduct. My pursuit of the case may have been the catalyst for his improper statements, but that is solely because I pressured him to "do the right thing."

After this incident, I felt my client might be granted some relief in order to avoid further litigation and resulting publicity. Plea offers are often made in post-conviction relief matters and it was possible that the matter would be handled expediently. I wrote for an informal ethics opinion as to whether I had a duty to report the incident. I was told that revealing the incident at that point could be detrimental to my client and my ethical duty was to my client. Mr. Joseph was later made an offer by the state that could have reduced his sentence, but he rejected it. I later withdrew from the case because I would be a witness.

The details concerning the Joseph case are somewhat complex. I have not attempted to fully describe the facts because I realize that is not the focus of your inquiry. However, I feel a summary was necessary in order to understand the context in which Judge Goodfarb's statements were made. I hope this letter will be of assistance to you.

Sincerely,

Maricopa County Public Defender

STEPHEN R. COLLINS
Deputy Public Defender

SRC/ts

Epilogue: When Judge Goodfarb disqualified himself from the *Joseph* case, he stated, "in the nature of joking and kidding around, I made some remarks which might be taken inappropriately. That places an undue

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burden on Mr. Collins with regard to this case. . . ." Reporter's Transcript (hereafter R.T.) 9-1-89 at 2-3. Judge Goodfarb forgot about this transcript when he testified before the Commission and claimed the racial slurs were the result of being frustrated with me.

During cross-examination by Commission counsel Bruce Meyerson, Judge Goodfarb was asked why he gave a different reason immediately after the informal conference. Twice he denied giving any other version and insisted there was no record made after the informal conference. When Meyerson confronted him with the transcript of Judge Goodfarb recusing himself after the conference, he finally admitted that he had previously given a different version. R.T. 3-25-94 at 265-70 and R.T. 9-1-89 at 1-4 (Exhibit 5 before the Commission). When Judge Goodfarb talked to the *New Times*, he evidently forgot to tell them that he had changed his story.

Judge Goodfarb also admitted to the Commission that he told me at the informal conference he was going to rule against my client. This was prior to allowing me to present any evidence. Judge Goodfarb later tried to justify this statement by claiming he was only "yanking [my] chain" because he was mad at me. *Id.* at 254 and 265-66.

The Commission found Judge Goodfarb had "referred to African-Americans on more that one occasion as 'fucking niggers.'" The Commission further found: "After the [Judge Goodfarb's] derogatory comments, the defendant's attorney asked the Respondent to permit the attorney to make a record of the Respondent's comments. The Respondent attempted to convince the attorney not to place his comments on the record by claiming that his comments were spoken in jest." Findings of Fact at 2. There was no finding that the racial slurs were the result of frustration. The Commission recommended a three-month suspension.

Lesson: Any defense attorney facing a similar situation should do everything possible to make a contemporaneous record of the improper remarks and should immediately obtain a copy of the transcript. This will likely prevent people's memories from changing to the detriment of defense counsel. Otherwise, an already unpleasant situation may become a personal nightmare.

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How Will We Know When The Maricopa County Public Defender's Office is a Success?

by Christopher Johns

Bulls do not win bull fights; people do.
People do not win people fights; lawyers do.

Norman Augustine, "Augustine's 10th Law", *Augustine's Laws*, 1986

There is never a deed so foul that something couldn't be said for the guy; that's why there are lawyers.

Melvin Belli, *Los Angeles Times*, 12/18/81

Although I'm not a big hockey fan, recently a friend told me about the "Gretsky Principle."

"What's that?" I asked.

"The Gretsky Principle," she said, "is when you skate to where the puck is going to be, not where it is. That's what makes Wayne Gretsky such a great player. He anticipates and has a vision of where the puck is going."

The same may be said about great lawyers. They seem to mold and shape their cases, and anticipate evidentiary problems as well as creatively envision what the case will look and sound like to jurors. They know where the "puck is going to be." Many seek this skill; few possess it.

How will we know when the Maricopa County Public Defender's Office is a success? What do lawyers in the office think would make the office a success? What about the citizens of Maricopa County and the funding source? What do they think would make this a successful office? What would trial and appellate judges think would make this office a success? What do office managers think? What do you think?

And, using the "Gretsky Principle," is anyone skating to where the puck's going to be? More importantly, can we make the play by guiding the system to help create a successful Maricopa County Public Defender's Office? How will we know when we are successful?

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Quality

Most, if not all, people want a quality product or service. That should be the goal of the Maricopa County Public Defender's Office. One problem is that public defenders must often do more with less. Many lawyers in our office, however, perform outstanding representation for clients. Some do not.

A year ago, *for the Defense* published a list of "Ten Characteristics of a First-Rate Public Defender's Office." The list noted that commitment, training, personnel, retention, providing comprehensive service, consistent quality, flexibility, excellent management, and independence were reflections of a top public defender office. A top public defender office means the delivery of quality legal services and excellent lawyers, investigators and other staff.

Present times are difficult. Still, it seems to me that where the puck should be going---no matter what--is toward quality. We have to decide that quality for indigent representation is the ONLY ACCEPTABLE STANDARD.

Quality does not happen by chance. It's a conscious decision.

Quality Is A Decision

Quality does not happen by chance. It's a conscious decision. Quality is the product of a well-managed and trained group of lawyers dedicated to providing excellent service to our clients. People have to make it happen.

Proposed Performance Standards

One way to chart the course for quality is to have performance standards. Recently, performance standards were drafted and circulated to each lawyer in the office. Comments were solicited. Few were received.

The performance standards, among other things, seek to address the following:

* What are the characteristics of a quality public defender office?

* What are the characteristics of quality representation by defenders?

* How can quality representation by defenders be achieved?

* What are the barriers in the office/the system to the implementation of quality management and to quality representation?

* What needs to be done in each case to insure quality representation by staff attorneys?

The Vision: What Makes Success?

How would the office look if we were successful? One vision for success in the office is the following:

* Inmates at the Maricopa County Jail want a "street lawyer" since the talk is to "get a PD if you want the best."

* Clients eagerly tell anyone, even when they lose, that their defender and the office gave 100% and that they got the best result considering the circumstances.

* There are few complaints from clients, their families and friends that lawyers never return phone calls.

* Everyone in the office considers this ONE PROFESSIONAL LAW FIRM that has the goal of providing the best representation possible.

* Everyone in the office understands what is expected of them, and receives training and encouragement to help them to perform with excellence.

* Everyone in the office feels like a member of a TEAM, with each lawyer, investigator, client services coordinator, initial services specialist, secretary, and office aide sharing in the office's success.

* Every employee is loyal to the office and its clients.

* Every employee, especially lawyers, respects the clients--even if a client does not act respectfully toward them.

* Policies, rules, and procedures are well-articulated and publicized, and are designed to further quality legal representation.

* Each case is prepared and reviewed.

* A case review system is implemented in the office for all cases going to trial. Review is also provided for other major cases.

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* Major cases are routinely "mocked." Openings, cross-examinations, and closings are performed for other lawyers before trial.

* There is an aggressive motion practice--motions are researched and written clearly and concisely.

* Lawyers rarely get "burnt out," and when they do, assignments rotate to ensure retention.

* Lawyers who do not perform quality legal representation and strive to fully implement office performance standards are expected to improve their performance or face progressive disciplinary consequences.

* Everyone performs to the best of his/her ability.

* The office has a reputation for providing aggressive, high-quality representation, and all prosecutors know that in each and every case that is taken to trial they will face a tenacious, well-thought-through defense. Every case has a developed theory and themes that will be emphasized.

* The office has a national reputation for being the BEST DEFENDER OFFICE.

* The office's annual trial advocacy college has a national reputation for being one of the best.

* Caseloads are reasonable to ensure quality representation.

* The office is an effective advocate for change on a local, state, and national level.

* The office regularly meets with organizations and people from our client groups, as well as other segments of the community, to explain what we do and why we do it.

* Judges and the private bar recognize that some of the best lawyers in the state work at the Maricopa County Public Defender's Office.

* Most importantly, lawyers understand completely their ethical obligations and the appropriate standards for providing quality legal representation. Quality legal representation is directly related to what is required in each case and the number of cases. Lawyers and management always take the appropriate steps whenever caseloads place a defender or the office as a whole in imminent danger of ethical violations. Lawyers understand that handling too many cases is unfair to clients and to themselves.

Quality Representation x Caseload = Workload

"But we don't have time to do all the things on a case!" That is the same old thinking that ensures that many of our clients risk not receiving quality legal representation. This is just a rationalization for creating poor service for poor clients. We can do better if we try.

When caseloads dictate the level of quality, clients are not served. It is unfair to clients, the community, judges, and to every lawyer who must represent too many people.

The ABA Standards, Providing Defense Services, Standard 5-4.3 says it fairly succinctly:

> Neither defender organizations nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations. Whenever defender organizations or assigned counsel determine, in the exercise of their best professional judgment, that the acceptance of additional cases or continued representation in previously accepted cases will lead to the furnishing of representation lacking in quality or to the breach of professional obligations, the defender organizations or assigned counsel must take steps as may be appropriate to reduce their pending or projected workloads.

Clients deserve to receive and lawyers deserve to deliver nothing less than quality. Nothing else is acceptable. ◆

June Jury Trials

May 12

Leonard Whitfield (w/ Nick Hentoff): Client charged with sexual conduct with a minor, child molestation, and 15 counts of sexual abuse. Investigator R. Thomas. Trial before Judge Gerst ended June 29. Client found **not guilty**. Prosecutor A. Williams.

May 24

Doug Gerlach: Client charged with theft (with two priors). Trial before Judge Barker ended June 2. Client found guilty. Prosecutor W. Baker.

June 1

Peter Claussen: Client charged with aggravated assault and endangerment. Trial before Judge Seidel ended June 14 with a mistrial. Prosecutor L. Krabbe.

June 2

David Brauer: Client charged with first degree murder. Trial before Judge Dann ended June 14. Client found guilty of murder in the second degree. Prosecutor M. Kemp.

June 3

Ray Schumacher: Client charged with possession of marijuana. Trial before Judge Portley ended June 3. Client found **not guilty**. Prosecutor T. McCauley.

June 6

Nina Stenson: Client charged with attempted possession of narcotic drugs. Trial before Judge Ryan ended June 6. Client found guilty. Prosecutor J. Bernstein.

June 13

Jerry Hernandez: Client charged with resisting arrest and aggravated assault (with two priors). Investigator V. Dew. Trial before Judge Jarrett ended June 16. Client found **not guilty**. Prosecutor C. Smyer.

Genii Rogers: Client charged with aggravated DUI. Trial before Judge Dougherty ended June 16. Client found guilty. Prosecutor Burkholder.

Gabriel Valdez: Client charged with aggravated assault. Investigator N. Jones. Trial before Judge Brown ended June 16. Client found **not guilty**. Prosecutor Wakefield.

June 14

Doug Gerlach: Client charged with burglary (with two priors). Trial before Judge Portley ended June 15. Client found guilty. Prosecutor K. Leisch.

June 15

Jeremy Mussman: Client charged with 2 counts of burglary and 2 counts of theft (with a prior and while on probation). Trial before Judge Seidel ended June 21. Client found guilty. Prosecutor J. Charnell.

June 16

Dan Patterson: Client charged with robbery. Trial before Judge Hertzberg ended June 22 with a **judgment of acquittal** on robbery charge; client found guilty of lesser included offense (class 6). Prosecutor Puchek.

June 20

Katie Carty: Client charged with kidnapping and theft. Investigator V. Dew. Trial before Judge Sheldon ended June 23. Client found guilty (tried in absentia). Prosecutor G. McKay.

Todd Coolidge: Client charged with killing sheep. Investigator G. Beatty. Trial before Judge Skousen (South Mesa Justice Court) ended June 20. **Judgment of acquittal**. Prosecutor E. Jones.

David Goldberg: Client charged with aggravated assault (dangerous). Trial before Judge Trombino ended June 28. Client found **not guilty** of aggravated assault; guilty of lesser included misdemeanor. Prosecutor A. Johnson.

Scott Halverson: Client charged with three counts of sexual abuse, five counts of sexual assault, and one count of attempted sexual assault. Investigator R. Thomas. Trial before Judge Ryan ended June 29. Client found guilty. Prosecutor R. Campos.

Jerry Hernandez: Client charged with burglary. Investigator G. Beatty. Trial before Judge Ventre ended June 21. Client found guilty. Prosecutor S. Wells.

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Anna Unterberger: Client charged with theft. Investigator J. Martinez. Trial before Judge Cole ended June 23. Client found guilty. Prosecutor J. Martinez.

June 22

Robert Billar: Client charged with aggravated assault. Trial before Judge O'Toole ended June 28. Client found guilty. Prosecutor V. Harris.

James Cleary: Client charged with aggravated assault. Trial before Judge Dougherty ended June 27 with **a judgment of acquittal**. Prosecutor M. Brnovich.

June 27

Robert Ellig: Client charged with aggravated DUI. Investigator N. Jones. Trial before Judge Hertzberg ended June 29 with a hung jury. Prosecutor Duran.

Candace Kent: Client charged with burglary. Bench trial before Judge Anderson ended June 29. Client found **not guilty**. Prosecutor J. Blomo.

Barbara Spencer: Client charged with sale of narcotic drug. Investigator R. Barwick. Trial before Judge Seidel ended June 29. Client found guilty. Prosecutor D. Schlittner.

June 28

James Haas: Client charged with aggravated assault (dangerous, with a prior, and while on probation). Investigators W. Woodriffe and C. Yarbrough. Trial before Judge Howe ended July 1. Client found **not guilty** on the aggravated assault charge; found guilty of disorderly conduct. Prosecutor R. Wakefield.

June 29

Leslie Newhall: Client charged with attempted molestation. Investigator C. Yarbrough. Trial before Judge Anderson ended July 7. Client found guilty. Prosecutor Novitsky. ◆

Bulletin Board

Trial Skills College Wins Award

The Maricopa County Public Defender's Annual Trial Skills College has been selected for a 1994 Achievement Award from the National Association of Counties (NACo) . In the letter announcing the award, NACo's Executive Director noted, "NACo is proud to confer this award and recognize your hard work to promote responsible and effective county government."

The award will be presented to our county's representative during NACo's Annual Conference in Nevada, July 31 - August 4.

The Trial Skills College was held in March of this year at Arizona State University's College of Law. The faculty consisted of **Russell Born** (MCPD), **Bob Doyle** (MCPD), **Larry Grant** (MCPD), **William Foreman** (private practice, Phoenix), **Tom Henze** (private practice, Phoenix), **Christopher Johns** (Training Director, MCPD), **Andrea Lyon** (Director of the Illinois Capital Resource Center, Chicago), and **Emmet Ronan** (MCPD).

New Attorneys

On August 8, the following three attorneys will start to work in our office:

Gerald Gavin comes to our office after serving as a Mohave County Public Defender for 2½ years. Gerald earned his B.S. in Public Administration at the University of Arizona in 1986 and his J.D. at the Southern Illinois University School of Law in 1990.

Christine Israel, who currently has a private criminal practice in Scottsdale, Arizona, previously worked at the Office of Human Rights--Department of Health Services, representing clients in the mental health system. Christine received her B.A. in Organizational Communication from Arizona State University in 1989 and her J.D. from the University of San Diego School of Law in 1993. While in law school, Christine interned with the Federal Public Defender's Office of San Diego.

Anne Whitaker has been employed with the La Paz County Public Defender's Office for the past year. Anne earned her B.S. in Genetics at the University of California at Davis in 1986, and her J.D. at Arizona State University in 1992. While in law school, Anne served as an extern at the Federal Public Defender's Office in Phoenix, Arizona. Her past experience also includes assisting in laboratory research in the bacteriology department, working as an emergency room aide, and serving as a forest-fire fighter--suppression crew. ◆

FOR THE DEFENSE JULY INDEX

Number of crimes committed by armed offenders in 1992: 931,000
Percentage of handgun crimes of all violent offenses: 13%
Rate in 1992 of nonfatal handgun victimizations: 4.5 per 1,000 people

Percentage of violent crime victims who used a handgun to defend themselves between 1987-92: 1%
Number of persons who used a handgun to defend their property during a theft, household burglary, or motor vehicle theft: 20,300
Average annual number of firearms reported stolen between 1987-92: 341,000

Percentage of whites of all ages per 1,000 persons who were victims of a crime using a handgun: 3.7%
Percentage of blacks of all ages per 1,000 persons who were victims of a crime using a handgun: 14.2%

Number of times males are as likely as females to be victims of handgun crimes: twice
Number of times blacks are as likely as whites to be victims of handgun crimes: three

Rate for rape, robbery and assault per 1,000 in 1992: 35
Rate for rape, robbery and assault per 1,000 in 1981: 39

Percentage of times offenders shot at victims from 1987-92: 17%
Percentage of times offenders shot at victims, excluding homicides, and victim was hit between 1987-92: 3%

*Source: U.S. Department of Justice: Bureau of Justice Statistics (April 1994). Compiled by the *for the Defense* editor.

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Call for Client Clothing Closet

Our office's clothing closet for clients is in need of dark socks. If you have any nice, dark socks that you are willing to donate, please see **Janet Blakely** in Records.

Also, the closet needs clothing racks to hold all the shirts, blouses, suits, etc. If you know of any that are available or if you have any suggestions as to how we could obtain some, please contact Janet.

Finally, please remember to return clothes promptly to the closet after clients are done using them for court. We need to get the clothes cleaned and back into circulation as soon as possible.

Thanks for your help with this worthwhile project.